

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

Initially, Applicant notes that the Office Action Summary (Form PTOI-326) does not acknowledge that a claim for foreign priority in connection with 35 U.S.C. §119 was made or that certified copies of priority documents were received. However, Applicant claimed the right of priority in connection with 35 U.S.C. §119 and submitted a certified copy of Japanese Patent Application No. 2003-000613 (JP2003-000613) filed January 6, 2003, on January 5, 2004. Therefore, Examiner is respectfully requested to acknowledge in the next Office communication that Applicant has claimed the right of foreign priority in connection with 35 U.S.C. §119 and that the Office has received a certified copy of the priority document.

This Amendment is submitted in response to the final Office Action mailed May 2, 2008, to request reconsideration of claims 1-14 as set forth within. In the event the Examiner determines that the foregoing amendments do not place the case in condition for allowance, it is respectfully requested that the above amendments be entered to place the claims in better form for consideration on appeal.

Claims 1, 2 and 4-13 were rejected under 35 U.S.C. §102(b) as being allegedly anticipated by U.S. Patent No. 5,954,746 to Holthaus et al., (hereinafter "Holthaus").

In response, Applicant has amended independent claims 1 and 12 to clarify their distinguishing features. Support for the amendments to claims 1 and 12 is provided in the specification at, for example, page 12, line 14 to page 13, line 2, page 14, lines 11-21 and FIG. 4. Applicant respectfully submits that no new matter has been introduced by way of amendments to claims 1 and 12. Further, the amendments to claims 1 and 12 do not raise a new issue.

Therefore, Applicant respectfully requests that the above amendments to claims 1 and 12 be entered and considered by the Examiner.

Independent claim 1 has been amended to recite an ultrasonic treatment device comprising an ultrasonic probe for treating living-body tissue by transmitting thereto ultrasonic vibrations generated by means of an ultrasonic transducer, a manipulating section main body at a fixed side wherein the ultrasonic probe is inserted and arranged at the distal end thereof, a moveable jaw, arranged opposite to the ultrasonic probe, that grips living-body tissue with the ultrasonic probe, and that is supported to freely pivot about a first pivot shaft at the peripheral surface of the manipulating section main body, and a moveable handle linked with the moveable jaw for opening/closure operation of the moveable jaw with respect to the ultrasonic probe and supported to freely pivot about a second pivot shaft at the peripheral surface of the manipulating section main body, wherein the moveable jaw and the moveable handle are arranged on the same side with respect to the longitudinal central axis of the manipulating section main body.

The Examiner states in the Office Action that jaw pivot pin 90 in Holthaus discloses a first pivot shaft at the peripheral surface of a manipulating section main body as provided in claim 1 of the present application. Further, the Examiner states that accessory housing 28 in Holthaus discloses the manipulating section main body as provided in claim 1 of the present application. Moreover, the Examiner states that camming pin 76 in Holthaus discloses a second pivot shaft as provided in claim 1 of the present application.

We respectfully disagree for at least the following reasons.

Referring to Holthaus, column 4, lines 9-13 and FIG. 3, clamping jaw 24 is affixed to elongated tube 22 by jaw pivot pin 90 that is positioned in pivot pin guide hole 92. Applicant notes that jaw pivot pin 90 and pivot pin guide hole 92 is provided on elongated tube 22 and not

on accessory housing 28. Therefore, jaw pivot pin 90 and pivot pin guide hole 92, as cited by the Examiner, does not teach or suggest a first pivot shaft at the peripheral surface of the manipulating section main body, as provided in claim 1.

Referring to Holthaus, column 6, lines 11-27, and FIGS. 9 and 10, first camming channel 54 and first camming pin 74 comprise first cam 32 and second camming channel 56 and second camming pin 76 comprise second cam 34. As clamp jaw actuation mechanism 26 moves from a closed position to an open position, camming pins 74 and 76 move along camming channels 54 and 56 respectively. In other words, second camming pin 76 rotates and slides within second camming slot 56 and is not fixed with respect to accessory housing 28. In contrast, claim 1 as amended recites a moveable handle linked with the moveable jaw for opening/closure operation of the moveable jaw with respect to the ultrasonic probe and supported to freely pivot about a second pivot shaft at the peripheral surface of the manipulating section main body. Therefore, second cam 34 (including second camming channel 56 and second camming pin 76) does not teach or suggest the second pivot shaft as provided in claim 1 of the present application.

Accordingly, for at least the above-stated reasons, Applicant respectfully submits that independent claim 1 and the claims depending therefrom are patentable over the cited art.

Independent claim 12 in the present application has also been amended to recite a moveable jaw, arranged opposite to the ultrasonic probe, that grips living-body tissue with the ultrasonic probe, and that is supported to freely pivot about a first pivot shaft at the peripheral surface of the manipulating section main body, and a moveable handle linked with the moveable jaw for opening/closure operation of the moveable jaw with respect to the ultrasonic probe and supported to freely pivot about a second pivot shaft at the peripheral surface of the manipulating section main body.

Accordingly, for at least the above-stated reasons, Applicant respectfully submits that independent claim 12 and the claims depending therefrom are patentable over the cited art.

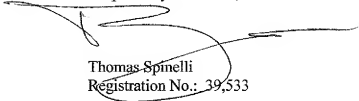
In the Office Action, claims 3 and 14 were rejected under 35 U.S.C. §103(a) as being purportedly unpatentable over Holthaus in view of U.S. Patent No. 6,066,135 to Honda (hereinafter "Honda").

Claims 3 and 14 depend from independent claims 1 and 12, respectively. Therefore, Applicant respectfully submits that claims 3 and 14 are also patentable over the cited art because Holthaus and Honda, taken individually or in any proper combination, do not disclose each and every element of independent claims 1 and 12.

In view of the amendments to the claims and remarks hereinabove, Applicant submits that the application is now in condition for allowance. Accordingly, Applicant earnestly solicits the allowance of the application.

If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is asked to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli
Registration No.: 39,533

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza-Suite 300
Garden City, New York 11530
(516) 742-4343

TS/WC:vh